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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

## EASTERN DIVISION

UNITED STATES OF AMERICA, ) Case No. ED CV 12-01553 VAP(OPx)  
Petitioner, ) ORDER TO SHOW CAUSE  
vs. )  
KATHLEEN A. O'BRIEN, )  
Respondent. )

Upon the Petition and supporting Memorandum of Points and Authorities, and the supporting Declaration to the Petition, the Court finds that Petitioner has established its *prima facie* case for judicial enforcement of the subject Internal Revenue Service ("IRS" and "Service") summons. See United States v. Powell, 379 U.S. 48, 57-58, 85 S.Ct. 248, 13 L.Ed.2d 112 (1964); see also Crystal v. United States, 172 F.3d 1141, 1143-1144 (9<sup>th</sup> Cir. 1999); United States v. Jose, 131 F.3d 1325, 1327 (9<sup>th</sup> Cir. 1997); Fortney v. United States, 59 F.3d 117, 119-120 (9<sup>th</sup> Cir.

1 1995) (the Government's *prima facie* case is typically made  
2 through the sworn declaration of the IRS agent who issued the  
3 summons); *accord*, United States v. Gilleran, 992 F.2d 232, 233  
4 (9<sup>th</sup> cir. 1993).

5 **THEREFORE, IT IS ORDERED** that Respondent appear before this  
6 District Court of the United States for the Central District of  
7 California in Courtroom No. 2,

8  United States Courthouse  
312 North Spring Street,  
9 Los Angeles, California 90012

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11  Roybal Federal Building and United States Courthouse  
255 E. Temple Street,  
12 Los Angeles, California 90012

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14  Ronald Reagan Federal Building and United States Courthouse  
411 West Fourth Street,  
15 Santa Ana, California 92701

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17  Brown Federal Building and United States Courthouse  
3470 Twelfth Street, Riverside, California 92501  
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19 on November 2, 2012, at 1:30 p.m.  
20 and show cause why the testimony and production of books, papers,  
21 records and other data demanded in the subject Internal Revenue  
22 Service summons should not be compelled.

23 **IT IS FURTHER ORDERED** that copies of this Order, the  
24 Petition, Memorandum of Points and Authorities, and accompanying  
25 Declaration be served promptly upon Respondent by any employee of  
26 the Internal Revenue Service or by the United States Attorney's  
27 Office, by personal delivery, or by leaving copies of each of the  
28 foregoing documents at the Respondent's dwelling or usual place

1 of abode with someone of suitable age and discretion who resides  
2 there, or by certified mail.

3 **IT IS FURTHER ORDERED** that within ten (10) days after  
4 service upon Respondent of the herein described documents,  
5 Respondent shall file and serve a written response, supported by  
6 appropriate sworn statements, as well as any desired motions.  
7 If, prior to the return date of this Order, Respondent files a  
8 response with the Court stating that Respondent does not desire  
9 to oppose the relief sought in the Petition, nor wish to make an  
10 appearance, then the appearance of Respondent at any hearing  
11 pursuant to this Order to Show Cause is excused, and Respondent  
12 shall be deemed to have complied with the requirements of this  
13 Order.

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**IT IS FURTHER ORDERED** that all motions and issues raised by the pleadings will be considered on the return date of this Order. Only those issues raised by motion or brought into controversy by the responsive pleadings and supported by sworn statements filed within ten (10) days after service of the herein described documents will be considered by the Court. All allegations in the Petition not contested by such responsive pleadings or by sworn statements will be deemed admitted.

DATED: This 12th day of September, 2012

ember, 2012  
Virginia A. Phillips

United States District Judge

Presented By:

ANDRÉ BIROTTE JR.  
United States Attorney  
SANDRA R. BROWN  
Assistant United States Attorney  
Chief, Tax Division

/s/

ANDREW T. PRIBE  
Assistant United States Attorney  
Attorneys for United States of America  
Petitioner